

Message Text

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FM AMEMBASSY BUENOS AIRES

TO SECSTATE WASHDC 7338

C O N F I D E N T I A L BUENOS AIRES 6401

E.O. 11652: GDS

TAGS: EINV, AR

SUBJECT: INVESTMENT DISPUTE: DELTEC

REF: BUENOS AIRES 6194

1. NEW YORK-BASED DELTEC REP TRAVER CALLED ON ME SEPT. 28 TO BRIEF ME ON DECISION OF THE ARGENTINE SUPREME COURT IN FAVOR OF DELTEC. TRAVER BELIEVED DECISION WOULD HAVE THE EFFECT OF DISASSOCIATING DELTEC'S SUGAR MILL LA ESPERANZA FROM THE SWIFT BANKRUPTCY PROCEEDINGS, THUS AVERTING THE DANGER OF A FORCED SALE OF THE SUGAR MILL TO PAY OFF SWIFT CLAIMS.

2. SUPREME COURT DECISION INDICATED THAT LOWER COURT (NATIONAL CHAMBER OF COMMERCIAL APPEALS) HAD NOT PRECISELY ESTABLISHED THAT INGENIO LA ESPERANZA AND SWIFT CONSTITUTED "AN ECONOMIC UNITY" OR THAT LA ESPERANZA HAD COMMITTED FRAUD OR PLAYED A ROLE IN BRINGING ABOUT THE BANKRUPTCY OF SWIFT. MOREOVER, THE LOWER COURT HAD NOT GIVEN LA ESPERANZA ANY OPPORTUNITY TO DEFEND ITSELF AGAINST THE CHARGES.

3. WHILE THE SUPREME COURT DECISION LEAVES OPEN THE POSSIBILITY THAT THERE COULD BE FURTHER PROCEEDINGS TO TRY TO ESTABLISH LA ESPERANZA-SWIFT RELATIONSHIP, TRAVER BELIEVES THESE WILL NOT OCCUR BECAUSE IT IS SO CLEAR THAT LA ESPERANZA HAD NOTHING TO DO WITH SWIFT'S FINANCIAL
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PROBLEMS.

4. TRAVER SAID THAT THE SUPREME COURT DECISION WILL PROBABLY PERMIT DELTEC TO SELL LA ESPERANZA SUGAR MILL (ASKING PRICE IS US\$47 MILLION). HE CONFIRMED REPORTS THAT THE PACHECO GROUP HAS EXPRESSED INTEREST IN BUYING THE SUGAR MILL. IN TRAVER'S OPINION, HOWEVER, IT WOULD BE POLITICALLY DANGEROUS TO SELL THE SUGAR MILL UNTIL THE SWIFT CASE HAS BEEN SETTLED AND CREDITORS ASSUAGED.

5. TRAVER SAID IT WOULD PROBABLY TAKE ANOTHER SIX MONTHS TO RESOLVE THE SWIFT CASE. HE HOPED THE LIQUIDATOR WOULD START SELLING BEFORE YEAR-END AT LEAST SOME OF THE SWIFT PROPERTIES (TOTAL SWIFT ASSETS VALUED AT US\$42 MILLION) AND BEGIN TO MAKE PARTIAL PAYMENTS TO THE CREDITORS. TRAVER SAID THAT SWIFT HAS BEEN VERY PROFITABLE LATELY, EARNING ABOUT US\$2 MILLION PER MONTH, AND HAS ABOUT US\$10 MILLION IN WORKING CAPITAL -- SOME OF WHICH COULD ALSO BE USED IMMEDIATELY TO PAY CLAIMS. DESPITE SWIFT'S PROFITABILITY, TRAVER SAID IT MIGHT BE DIFFICULT TO FIND A BUYER FOR THE MEAT PACKING FACILITIES.

6. COMMENT: SUPREME COURT DECISION IS CLEARLY A MAJOR BREAKTHROUGH IN RESOLVING THE DELTEC INVESTMENT DISPUTE. DECISION WAS REPORTED BY MOST MAJOR NEWSPAPERS BUT DID NOT EVOKE ANY UNFAVORABLE COMMENT -- A HOPEFUL SIGN THAT IT WILL NOT BECOME A LOCAL POLITICAL ISSUE.
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